

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT EUGENE ROJAS,

Plaintiff,

v.

FAIRFIELD SUPERIOR COURT
CLERK'S OFFICE,

Defendant.

No. 2:21-cv-00967-CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account

exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

I. Screening Requirement

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke, 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989); Franklin, 745 F.2d at 1227.

In order to avoid dismissal for failure to state a claim a complaint must contain more than “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557 (2007). In other words, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Furthermore, a claim upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678. When considering whether a complaint states a claim upon which relief can be granted, the court must accept the allegations as true, Erickson v. Pardus, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

II. Allegations in the Complaint

At all times relevant to the allegations in the complaint, plaintiff was an inmate at San

1 Quentin State Prison. He alleges that the Fairfield Superior Court Clerk's Office denied him
 2 access to the courts by refusing to file his state lawsuit for over a year. By way of relief, plaintiff
 3 seeks compensatory and punitive damages.

4 **III. Legal Standards**

5 Court clerks have absolute quasi-judicial immunity from suits requesting damages or
 6 injunctive relief "when they perform tasks that are an integral part of the judicial process."
 7 Mullis v. United States Bankruptcy Court, 828 F.2d 1385, 1390, 1394 (9th Cir. 1987). The filing
 8 of documents is an integral component of the judicial process. See, e.g., Sermeno v. Lewis, No.
 9 1:16-cv-01582 LJO-BAM (PC), 2017 WL 117879, at *2-3 (E.D. Cal. Jan. 11, 2017) (holding that
 10 state superior court clerks are entitled to quasi-judicial immunity for allegedly refusing or failing
 11 to file plaintiff's documents); Palacios v. Fresno County Super. Ct., No. 1:09cv0554 OWW DLB,
 12 2009 WL 3416173, at *4-5 (E.D. Cal. Oct. 21, 2009).

13 Plaintiff has a constitutional right of access to the courts and prison officials may not
 14 actively interfere with his right to litigate. Bounds v. Smith, 430 U.S. 817 (1977), abrogated in
 15 part by Lewis v. Casey, 518 U.S. 343 (1996). This right of access to the courts is limited to direct
 16 criminal appeals, habeas petitions, and civil rights actions. Lewis, 518 U.S. at 354. In order to
 17 state a viable claim for relief, plaintiff must allege he suffered an actual injury, which is prejudice
 18 with respect to contemplated or existing litigation, such as the inability to meet a filing deadline
 19 or present a non-frivolous claim. Id. at 349.

20 **IV. Analysis**

21 The court has reviewed plaintiff's complaint and finds that it fails to state a claim upon
 22 which relief can be granted under federal law. First and foremost, defendant is entitled to quasi-
 23 judicial immunity in this suit seeking compensatory and punitive damages for failing to file
 24 plaintiff's state court lawsuit. See Mullis, 828 F.2d at 1394. Additionally, plaintiff has not
 25 alleged a denial of his right of access to the courts because it does not appear that the state court
 26 lawsuit was a direct criminal appeal, habeas petition, or civil rights lawsuit. See Lewis, 518 U.S.
 27 at 354. Plaintiff's complaint must be dismissed. The court will, however, grant leave to file an
 28 amended complaint.

1 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
 2 complained of have resulted in a deprivation of plaintiff's constitutional rights. See Ellis v.
 3 Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, in his amended complaint, plaintiff must allege in
 4 specific terms how each named defendant is involved. There can be no liability under 42 U.S.C.
 5 § 1983 unless there is some affirmative link or connection between a defendant's actions and the
 6 claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976). Furthermore, vague and conclusory
 7 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of
 8 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

9 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to
 10 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
 11 complaint be complete in itself without reference to any prior pleading. This is because, as a
 12 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
 13 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
 14 longer serves any function in the case. Therefore, in an amended complaint, as in an original
 15 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

16 **V. Plain Language Summary for Pro Se Party**

17 The following information is meant to explain this order in plain English and is not
 18 intended as legal advice.

19 The court has reviewed the allegations in your complaint and determined that they do not
 20 state any claim against the defendant. Your complaint is being dismissed, but you are being
 21 given the chance to fix the problems identified in this screening order.

22 Although you are not required to do so, you may file an amended complaint within 30
 23 days from the date of this order. If you choose to file an amended complaint, pay particular
 24 attention to the legal standards identified in this order which may apply to your claims.

25 In accordance with the above, IT IS HEREBY ORDERED that:

- 26 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.
- 27 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
- 28 shall be collected and paid in accordance with this court's order to the Director of the California

Department of Corrections and Rehabilitation filed concurrently herewith.

3. Plaintiff's complaint is dismissed.

4. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the docket number assigned this case and must be labeled "Amended Complaint." Failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed.

Dated: August 9, 2021



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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